



STATE OF WEST VIRGINIA  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
BUREAU FOR PUBLIC HEALTH

Earl Ray Tomblin  
Governor

Commissioner's Office  
350 Capitol Street, Room 702  
Charleston, West Virginia 25301-3712  
Telephone: (304) 558-2971 Fax: (304) 558-1035

Rocco S. Fucillo  
Cabinet Secretary

March 15, 2013

Dear Health Care Provider:

State and Local Health Department personnel and State and Regional Epidemiologists in West Virginia may collect, and health care providers must report, information including personally identifiable health information (PHI), required to be reported in accordance with the West Virginia legislative rule, Reportable Diseases, Events and Conditions, Title 64, Series 7, or 64CSR7. A link to the Secretary of State's website at: <http://apps.sos.wv.gov/adlaw/csr/index.aspx> will allow a search for the rule by name or number.

The rule applies broadly to all health care providers, facilities and laboratories. An extensive list of those to whom the rule applies appears at subsection 1.5. on "Applicability". The list includes physicians and other licensed health practitioners; local health officers; other public health providers; private or public laboratories; all health care facilities; the bureau; health care professional licensing boards and agencies; any individual administering immunizations; administrators of schools, camps, and vessels; administrators of health care facilities operated by the department; the State registrar of vital statistics; county humane officers, dog wardens; sheriffs; pathologists; coroners; veterinarians and other animal health care providers; and medical examiners; and any other person investigating or treating disease, health conditions, or cause of death. Failure to comply with the mandatory reporting requirements of the rule is a misdemeanor, punishable by fines in accordance with West Virginia Code §16-1-18. Each violation is considered a separate offense.

The HIPAA Privacy Rule, (45 CFR Parts 160 and 164) guarantees certain privacy rights to individuals. However, the Rule provides that PHI may be used and disclosed without the authorization of the subject of that information to the extent a law requires the production of that information (45 CFR 164.512(a)). The HIPAA Privacy Rule also provides that PHI may be used and disclosed to a **public health authority** without the authorization of the subject of that information for public health activities and purposes that are authorized by law (45 CFR 164.512(b)(1)(i)). Examples are preventing or controlling disease, injury or disability including, but not limited to, the reporting of disease, injury, vital events such as birth or death, and the conduct of public health surveillance, investigations, and public health interventions.

As such, an individual's authorization is not required for information supplied to a public health authority needing PHI to conduct public health activities authorized by law. According to HIPAA and clarifications received from the Centers for Medicare and Medicaid Services (CMS), "Disclosures made pursuant to a law that mandates the production of information are not subject to any limitations under the HIPAA Privacy Rule so long as the disclosure complies with and is limited to the relevant requirements of that law."

Health Care Provider  
March 15, 2013  
Page Two

HIPAA permits and the West Virginia Reportable Diseases rule requires that you report diseases, events and conditions as specified in the rule and assist public health authorities in their investigation and management of outbreaks. The legislative rule precludes the need for a Business Associate Agreement or other contract with the Public Health Authority before you provide the requested information.

For further information on reportable conditions, please contact your local health department or the Division of Infectious Disease Epidemiology at 304-558-5358 or 800-423-1271, or consult our website at <http://www.dhhr.wv.gov/oeps/disease/Pages/default.aspx>.

Sincerely,

A handwritten signature in blue ink, appearing to read "Marian Swinker", is positioned above the printed name.

Marian Swinker, M.D., M.P.H.  
Commissioner